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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,992	10/02/2003	Jeffrey C. Herold	033905-025	1547

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EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,992

Applicant(s)

HEROLD, JEFFREY C.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 19-21 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12/8/03 6) ☐ Other: _____

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1. Drawings are objected to because the inclusion of reference numerals to describe Prior Art which is not shown in the drawings is improper under 37 CFR 1.84. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. Claims 19, 23 and 26 and thus their dependent claims are objected to because of the following informalities: It is noted that in amending the claims which are based on claim 1 combined with various dependent, applicant has left out "a bag member" as claimed in claim 1. Therefore there isn't any proper antecedent basis for the "said bag member" on line 4 in each of claims 19, 23 and 26. It is suggested that the "said bag member" on line 4 be changed to a bag member, while "a bag member" on line 5 of each of the claims is changed to said bag member. Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 22, 25, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant is advised that there isn't any proper antecedent basis in claim 19 for the "said two longitudinal pieces of webbing", as claimed in claim 22. The two pieces of webbing are set forth in claim 20, however it would appear that the handle claimed in claim 20 is the same structure as the loop claimed in claim 22. Moreover there isn't any proper antecedent basis in claim 23 for "the bag opening" claimed in claim 25. Similarly

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there doesn't appear to be any antecedent basis in claim 26 for "said bag opening" as claimed in claim 27.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swara in view of Edgerton, Jr. et al and Bergman, cited by applicant.

Swara teaches a base member for moving a duffle bag, which is considered to have the same construction as the base member claimed, with a bottom, back and side portions each coupled to the other at curved joints. The duffle bag (50) is of conventional construction and is considered to be comprised of the top, bottom and body section as claimed. In any event, Edgerton, Jr et al teach such a structure at 12 and to have made the duffle bag (50) of such a construction would have been most obvious to one having ordinary skill in the art. Moreover to have secured the bag handles with webbing extending down the bag sides to provide more support to the body section would have been obvious in view of the teaching of Bergman. To have further provided an additional pocket attached to the handle webbing would also have been obvious in view of such teaching by Bergman

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 23 above, and further in view of Litwack et, cited by applicant.

To have provided an additional oppositely disposed pocket to carry additional items, would have been obvious in view of such teaching by Litwack et al at 90.

6. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufmann in view of either Guidi or Shyr et al and Litwack et al, cited by applicant.

Kaufmann teaches a bag member of the structure claimed with a top, bottom and cylindrical body sections. Although Kaufmann does not suggest the inclusion of a base portion to support and protect the bag member, both Guidi and Shyr et al teach such an inclusion for a flexible bag. The term rigid is considered to be relative and the base portion of Guidi is considered to be a rigid structure relative to the bag portion. In any event, to have formed the base portion as a rigid member to support the bag for transportation would have been obvious in view of Shyr et al. The bases are both considered to have bottom back and side portions connected, as claimed. Note the straps of Kaufmann. To have further provided the bag with reinforcing strips longitudinally along the zipper opening (see Figure 5) would have been obvious in view of Litwack et al. The particular disposition and number of strips is considered to be a matter of choice dependent upon the size of the bag, the material of construction and the intended use for the bag.

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7. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 26 above, and further in view of Bergman et al, cited by applicant.

To have buckled the strips together to close the top of the bag would have been obvious in view of the teaching by Bergman et al at 94.

8. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-21 are objected to but would be allowable.

Claim 22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

9. Claims 1-18 have been canceled while claims 19-21 and 28 have been objected to and claims 22-27, 29 and 30 have been rejected.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents

sw

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on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

DW

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW


Sue A. Weaver
Primary Examiner